ANNUAL REPORT

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Alberta

HUMAN RIGHTS COMMISSION

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Office of
the Minister

404 Legislature Building
Edmonton, Alberta, Canada
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October, 1983

The Honourable G. Amerongen
Speaker
Legislative Assembly of Alberta

Sir:

I have the honour to submit the Annual Report of the Alberta Human Rights Commission for the fiscal year ended March 31, 1983. The report is submitted in accordance with section 18(2) of the Individual's Rights Protection Act.

Respectfully submitted,

Leslie G. Young

Leslie G. Young
Minister of Labour

Alberta
HUMAN RIGHTS COMMISSION

Room 902, 10808 - 99th Avenue, Edmonton, Alberta, Canada T5K 0G2 403/427-3116

October, 1983

The Honourable Leslie G. Young
Minister of Labour
Room 404, Legislature Building
Edmonton, Alberta

Dear Mr. Young:

I am pleased to submit to you, the Minister responsible for the administration of the Individual's Rights Protection Act, the Annual Report of the Alberta Human Rights Commission for fiscal year 1982-83 for tabling before the Legislative Assembly.

Yours truly,

Marlene Antonio
Chairman

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"... it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in dignity and rights without regard to race, religious beliefs, colour, sex, physical characteristics, age, ancestry or place of origin ..."

. . . From the Preamble to the Individual's Rights Protection Act.

Chairman's Report

For the Alberta Human Rights Commission, this has been a busy, exciting and productive year. The Commission is proud of the positive results which have been achieved after a year of hard work.

One of the Commission's major objectives has always been to improve service to the public. Therefore, a massive program directed at streamlining the process of handling cases was put into practice.

One of the most notable innovations is the development and use of the Respondent's Response form. The forms are sent, along with a copy of the complaint, to the respondent - the person, company or organization against whom the complaint is filed. Through this form, the respondent is given an opportunity to present his/her view of events surrounding a complaint. Although use of the form is voluntary, 90 per cent of the forms are completed and returned. Not only does this facilitate the investigation of a complaint, it also allows both parties to be fully aware of each other's point of view.

The development of an extensive policy manual for internal use, the enunciation of guidelines and policies, and the use of computers to aid in the collection of data, have also contributed to the improvement of service. For example, last year the Commission fielded 8,000 enquiries, and of these, 369 resulted in the laying of formal complaints. With the aid of the computer and monthly reports, we are able to keep detailed records which pinpoint the nature of all enquiries. These data are readily available to the public, if requested.

During the past year, the Commission has placed a marked emphasis on its educational mandate. Considerable time and energy have been channelled into educational programming.

These programs have taken many forms. For example, the Commission has ventured along two paths in the field of journalism. In April, the first copies of the newly-produced **Alberta Human Rights Journal** were distributed to a number of employers, interest groups and individuals. The paper, published quarterly, provides current information related to human rights. The demand for the **Journal** always seems to exceed the number of printed copies!

The second journalistic venture came about as a result of an offer from the editor of the Calgary Sun who invited the Chairman to use that newspaper as a means of informing the public about human rights issues. Consequently, the first of a series of monthly columns, authored by the Chairman, appeared in February.

The Commission staff has continued to respond to an ever-increasing number of requests to interact with students in educational institutions and to speak to special interest groups. This year marked the expansion of our educational program with the development of our in-house employer workshops and seminars. Additionally, the Commission produced a short slide presentation entitled "Human Rights - We're All Responsible". This presentation, which is also available on video tape, is used extensively within our expanded program. It is also available for public presentations.

There have been numerous invitations extended to the Chairman and Commissioners to speak in public forums. The Chairman has spoken to chambers of commerce, personnel associations, service clubs, special interest groups, teachers' conventions and has been a guest lecturer at the University of Alberta. Commissioners have also spoken to special interest groups and various professional organizations. As time and resources permit, the Commission has met its commitment to further the principles of human rights within this province.

Contacts with the media are very important to our educational mandate. The Commission has maintained an "open-door policy" the result of which is a positive working relationship with these groups. The high profile maintained by the Commission is reflected in the fact that during the 1982-83 year our public affairs officer fielded 205 calls from the media while the Chairman responded to 178 media calls. A large proportion of the latter involved in-depth interviews by the press and personal appearances by the Chairman on radio and television.

Education is often a two-way street and an exchange of information is beneficial to all parties. Consequently, the Commission has invited a number of ethnic and special interest groups to attend portions of our regular meetings to discuss matters of mutual interest and concern. Additionally, there have been many informal meetings with group representatives.

For some time the Commission has been deeply concerned about problems of discrimination encountered by the native population. With this in mind, two regular meetings were scheduled outside of Calgary and Edmonton - one at Slave Lake in June, the other in Lethbridge/Cardston in November. Those meetings allowed representatives from native communities to express their concerns and problems directly to the Commissioner. As a result, the Commission is formulating plans aimed at establishing direct contact with natives, particularly in the more isolated northern parts of the province.

(continued on page 2)

Chairman's Report

The meeting in Cardston represented a milestone for the Commission in that members of the Commission were asked, for the very first time since the Commission was formed a decade ago, to speak to native youths on a reserve. The reception from the youths, as well as from reserve officials, indicated that the Commission was welcome and would also be welcome in the future.

Alberta is home to many people of diverse languages and cultures. Not all people are able to function efficiently in English. In order to reach persons who are not fluent in English, a project has been initiated to translate the general provisions of the Individual's Rights Protection Act and relative information into Cree, Urdu, Ukrainian, French, and Chinese.

There have been other exciting developments which must not be overlooked.

In the investigative area where the Commission staff has been unable to resolve certain cases through the negotiation process, the Commission has directed the Minister of Labour to appoint boards of inquiry.

Two individual boards, both dealing with complaints of sexual harassment, have handed down landmark decisions. In one instance, the board ordered the harassers to pay $500 to the complainant to help pay for psychological treatment, necessitated as a result of the harassment. In the second case, the board ruled that vulgarities and obscenities in the working environment constitute a form of sexual harassment.

One of the most challenging and exciting plans ever considered by the Commission was initiated in January when we embarked upon an intensive program of public participation. A "green paper" dealing with principles and guidelines related to "physical characteristics" within the provisions of the Individual's Rights Protection Act, was developed for discussion purposes. Later this year, copies will be forwarded to concerned parties and public reaction will be encouraged, before final revisions are made to the guidelines. The final guidelines are expected to be completed by the end of 1983.

As a final note in relating the accomplishments of a very busy year, the Commission was pleased to achieve international recognition and to be asked to participate in two special conferences. Both the Executive Director and Chairman were invited to serve on panels of experts at the International Association of Human Rights Agencies conference held in Halifax. Additionally, the Chairman was one of 50 persons in North America who was selected to participate in a resource seminar held in Philadelphia.

It was a busy year, but the efforts by both staff and Commissioners have made it a fulfilling one. It is our hope that next year will be equally successful.

Marlene Antonio, Chairman
Alberta Human Rights Commission

Introduction

Individual's Rights Protection Act

In 1973 the Alberta Legislature passed and proclaimed the Individual's Rights Protection Act. (IRPA). The Alberta Human Rights Commission was established to administer the provisions of, and educate the public about, the act. The target of the act is discrimination — what people do. The legislation does not cover prejudice — what people think.

Although the term "human rights" encompasses, in the public mind, everything from the "right" to be allowed to smoke on an elevator to the "right" to vote, the Human Rights Commission can deal only with discrimination.

The IRPA protects Albertans from discrimination in three main areas — employment, tenancy and public services. It is a contravention of the act to discriminate against anyone because of race, colour, sex, religious beliefs, physical characteristics, ancestry or place of origin in any of those three areas. Age and marital status are protected categories in employment only.

The IRPA is not a criminal code. The Commission does not look for "guilt" or "innocence". It does not have the power, nor does it want it, to order an employer, landlord or service-provider to pay a fine, or agree to a settlement. The Commission, however, does have the responsibility to attempt to negotiate settlements which lead to satisfactory resolutions of complaints. The aim of the act is to give — to everyone in Alberta — an equal opportunity to earn a living, find a place to live and enjoy public services and accommodations.

Either party involved in a complaint is, of course, free to enlist the aid of a lawyer. But, especially at the Commission level, matters are usually settled without lawyers. The Commission is not a court of law. It is an agency that tries to deal with discrimination through mediation and education.

Commission investigators do not assume that anyone who walks through its doors is a victim of discrimination. In order to ensure objectivity the Alberta Human Rights Commission has established a set of guidelines for its human rights officers to follow when investigating complaints.

When a person complains to the Commission about discrimination, details are first recorded by an intake officer. From these details, the officer determines whether the complaint falls within the Commission's jurisdiction. If it seems that a victim does have cause for complaint, a formal document is signed. Until that document is signed, Commission staff cannot begin to investigate.

There is also a provision in the IRPA that allows a third party to sign a complaint form on behalf of another person who has been the victim of discrimination.

Alberta Human Rights Commission

The Commission is made up of seven members appointed by the Lieutenant Governor in Council, to represent the public-at-large.

The Commission meets for two days every month with meetings alternating between Calgary and Edmonton. Meetings may be held in other parts of the province and this year the special meetings included visits to Slave Lake and the Lethbridge Cardston areas.

The Commission has continued its policy of opening a portion of each meeting to the public and the media and releasing details of settled cases during these public meetings. The open portions have also served groups and individuals who have appeared before the Commission to discuss matters of concern or mutual interest. Confidential sessions are used to formulate policies, review complaints and discuss issues which may have a direct effect on the act.

The Commission is appointed by the Lieutenant Governor in Council but its independence and autonomy are respected by the government. The Minister of Labour is responsible for the administration of the Individual's Rights Protection Act.

Administration

The majority of the public's contacts with the Alberta Human Rights Commission are through its staff at the Edmonton and Calgary regional offices. The Executive Director and support staff are located in Commission headquarters in Edmonton, separate from the regional offices.

The administration of the act was strengthened during the past year when, after more than a year of work involving all staff members, the Commission developed a policy and procedures manual. The manual means that there will be a consistent and uniform application of Commission policy and direction. It will now serve as a source for all Commission policies and procedures. The policies will be updated at regular intervals.

A number of innovations enabled the Commission to improve service to the public.

During the past year, all human rights officers have taken turns acting as intake officer of the day, eliminating the need for a permanent intake officer. The change reflects the Commission's belief that the public's first contact with the Commission should be with an experienced investigator who can more quickly determine whether a complaint falls within the Commission's jurisdiction.

A Respondent's Response form, which gives respondents an opportunity to reply in writing to complaints made against them, was initiated during the period under review. The new response form has proven

Introduction

to be very effective and, to date, has a return rate of 90 per cent. As the first step in an investigation, a Respondent's Response form is mailed to the individual or corporation against whom a complaint has been laid. The form has proven to be a time-saving and efficient device.

Some types of discrimination within the Commission's jurisdiction are handled on an informal basis. For example, it was brought to the attention of the Commission that questions about age and sex on a company's application form might be considered discriminatory. The Commission contacted the company to advise them that there could be problems with such questions. The company volunteered to submit its application form for a review. Changes were suggested by the Commission and the recommendations were adopted.

In another case, a ski club was offering lower membership rates for women in the hopes of attracting more women skiers. When the matter was brought to the club's attention, the owners said they were not aware that different rates could be considered discriminatory and agreed to charge the same rates for men and women.

In both cases, no complaint was filed and there was no investigation but the matters were settled on an informal basis.

The number and types of enquiries and cases handled by the Commission are now being kept on a computerized file so that the Commission will be able to use statistics to predict trends or to readily identify problem areas.

Because of an increase of almost 100 per cent in the number of cases being handled by the northern regional office in Edmonton, the geographical area of responsibility for each regional office was changed. Effective this year, the northern regional office in Edmonton is responsible for all Commission activities north of Red Deer. The southern regional offices in Calgary will handle Commission activities in Red Deer and the southern part of the province. Previously, the city of Red Deer was under the jurisdiction of the northern regional office.

Investigative Responsibilities

Under section 20 of the IRPA, the Commission is bound to investigate the complaint and must endeavor to effect a settlement of that complaint. Negotiated settlements can include anything from a simple apology to monetary compensation.

Neither the Commission staff nor the Commissioners can order either of the parties involved to accept a settlement.

The Commission may dismiss a complaint at any stage of the proceedings if, in its opinion, the complaint is without merit.

A person investigating a complaint may do any or all of the following:

(a) enter on the land or premises of a person, other than a room or place actually used as a dwelling, at any reasonable time and examine them;
(b) demand the production for examination of employment applications, payrolls, records, documents, writings and papers that are or may be relevant to the investigation of the complaint;
(c) on giving a receipt for them, remove any of the things referred to in clause (b) for the purpose of making copies or extracts of them.

Investigators may enter and examine a room or place used as a dwelling only if:

(a) the owner or person in possession of it gives his consent to the entry and examination, or
(b) the entry and examination is authorized by an order of a judge of the Court of Queen's Bench.

If the person investigating a complaint:

(a) cannot obtain consent to enter and examine a room or place actually used as a dwelling or, having received consent, is obstructed or interfered with, or
(b) is refused entry to land or premises other than a room or place actually used as a dwelling,

he/she may apply to a judge of the Court of Queen's Bench for an order.

If the judge is satisfied that there are reasonable and probable grounds for believing that access is necessary for the purposes of the investigation, he/she may make an order:

(a) authorizing the entry and examination, or
(b) prohibiting any person from obstructing or interfering with the entry and examination,

or both.

When a person refuses a demand to produce relevant documents, the human rights officer may apply to a judge of the Court of Queen's Bench and the judge may make any order necessary to enforce compliance.

Commission Members

Chairman, Marlene Antonio, Calgary
December 19, 1979 to December 31, 1983
Appointed Chairman December 1, 1981

Marlene Antonio, a Calgary educator, has extensive experience in education. She taught basic skills to the handicapped and the disadvantaged with the Division of Continuing Education for the Calgary Board of Education. She has taught in the Stettler, Medicine Hat, Drayton Valley school systems, in Mount Royal College, Calgary and in the Faculty of Education, University of Calgary. She has worked as a geologist with Texaco Exploration and the University of Saskatchewan, (National Research Council). She received her B.Ed. and B.A. from the University of Saskatchewan and was that university's first woman graduate in geology. She has also completed graduate work in education at the University of Calgary.

Roland Miles, Edmonton
November 7, 1979 to October 31, 1983

Roland (Rollie) Miles, a former professional athlete and football player, is supervisor of physical education for the Edmonton Separate School Board. He played 11 seasons for the Edmonton Eskimos and is the first professional athlete to be nominated to Edmonton's Hall of Fame. In recognition of his involvement in community activities, Mr. Miles was cited by the City of Edmonton's 75th Birthday Committee. A former director of the Canadian Council of Christians and Jews, he is active with the Canadian Progress Club Council. He received his B.Ed. degree from the University of Alberta and his Master's degree in Family Counselling and Guidance from the University of Arizona.

Stanley Scudder, Edmonton
April 1, 1981 to March 31, 1985

Stanley Scudder, born in Winnipeg, Manitoba, is president of an Edmonton insurance agency and has been associated with the insurance industry for the past 36 years. He is involved with church activities and is chairman of the Church and Society Committee, a subcommittee of the Edmonton Diocese of the Anglican Church. That committee is concerned with such topics as justice, native concerns, and the problems of the needy and oppressed. He is founding president of the Westmount Christian Council, an ecumenical group in West Edmonton.

William Goetz, Calgary
November 1, 1981 to November 1, 1985

William Goetz, corporate vice-president, human resources, Burns Foods Ltd., in Calgary has been with the company since 1949 when he started in Kitchener, Ontario as an accounting junior. He was transferred to Calgary in 1957 when he became assistant to the general manager of industrial engineering; in 1965, he was made general manager of personnel and industrial relations; in 1967, he became executive assistant to the president; in 1974, he was promoted to vice-president and director of industrial relations and in 1981 he was made corporate vice-president for human resources. In his current position he is responsible for staff training, internal security, and staff personnel policy. During his career with Burns, he has developed a thorough background in employee and industrial relations and corporate affairs.

Commission Members

Sheryl Wowk, Edmonton
November 1, 1981 to November 1, 1985

Sheryl Wowk was born and raised in Edmonton and has been involved for a number of years in community affairs, including volunteer work for the United Way and the mentally disabled. She is actively involved in union activities and served on the executive council of the Alberta Federation of Labour (AFL) for three terms. She is a graduate of the Labour College of Canada and served as a chairperson of the Duke of Edinburgh Commonwealth Conference Study. She was chairman of the AFL's Human Rights Committee. She has worked for Air Canada for the past 17 years.

Alice Haxton, Fort McMurray
February 10, 1982 to January 31, 1986

Alice Haxton is one of the pioneers of the Fort McMurray area. She was born and raised near Winnipeg, Manitoba and lived in northern British Columbia before moving to Fort McMurray. She was widowed in 1972 and operated the family-owned business, Haxton's General Store, on her own until it was destroyed by fire on Christmas Day, 1979. Although she has not rebuilt the store, she is still actively involved in her own business interests as well as in the business community. She is a member of the Oil Sands Impact Committee, president of the Fort McMurray Chamber of Commerce, former president of the Fort McMurray Burns Club, and a member of the board of directors of the Family 'Y' in Fort McMurray.

Gerri Ehli
July 7, 1982 to June 30, 1986

Gerri Ehli of Cardston, is commercial development co-ordinator for the Blood Tribe Economic Development group. She has been involved in a number of community projects including volunteer work with the Southern Alberta Native Handicapped Society. She worked for a bank, insurance company, radio station, and the federal department of the Indian Affairs before joining the Blood Tribe Economic Development group 13 years ago. As a result of her marriage, Ms. Ehli is a non-status native. The mother of five boys, ages 11 to 21, she also designs clothes and employs a seamstress to sew her designs.

Evelyn Norberg, Slave Lake
Retired, May 31, 1982

Evelyn Norberg was born in Slave Lake and attended schools in Kinuso and Dawson Creek, B.C. She has been the assistant administrator of Providence Hospital in High Prairie, and was a supervisor at the Peavine Metis Settlement School. In 1977 she was appointed executive director of the Native Friendship Centre in Slave Lake. She has served as a hospital trustee and was a member of the Ministerial Advisory Board on Native Education for Alberta. Mrs. Norberg was appointed November, 1980 as a member of the investigation committee of the Northland School Division.

As part of its continuing efforts to serve the public and to clarify the provisions of the Individual's Rights Protection Act, the Commission released a number of policies to the public.

Bona Fide Occupational Qualification Opinion

A Bona Fide Occupational Qualification (BFOQ) opinion refers to specific requirements of a particular job which are so unique they necessitate that a person must possess certain attributes or characteristics in order to carry out the functions of that particular role. The nature of the requirements will eliminate all other groups within the prohibited grounds of the Individual's Rights Protection Act. In the opinion of the Alberta Human Rights Commission such requirements may occur only on the grounds of race, religion, or sex.

The Commission has a mandate "to promote an understanding of, acceptance of, and compliance with" the IRPA. It has no legal authority to grant any individual an exemption from any provision of the act. Any prior opinion given on the applicability of the BFOQ defense to a particular job situation will, for this reason, be phrased in such a manner as to indicate clearly that this is just the opinion of the Commission.

Appearance, Grooming Standards and Dress Code

Different dress and grooming codes for male and female employees may not be discriminatory according to a new policy issued by the Commission. The policy allows employers, under certain conditions, to set different dress and grooming codes for men and women.

In making the announcement the Commission said it was "aware that in the area of employment, conflicts may arise between the personal preferences of an employee in appearance, grooming, and standards of dress and those standards of appearance which the employer believes are necessary to the safe or effective conduct of their business."

In establishing dress codes, employers may specify different requirements for each sex. Such codes would not be discriminatory if:

- they were reasonable, not arbitrary, and within societal mores,
- they were not used to exclude persons protected under the Individual's Rights Protection Act,
- they were limited to conditions or characteristics that employees could change or alter.

Class Action Complaints

The Commission decided in February that no class action complaints could be accepted. The Commission cited the fact that there was no legislative or regulatory authority for class actions under the Individual's Rights Protection Act.

Psychological Testing

The Commission affirmed that it does not endorse psychological testing in any aspect of employment.

Reasonable Grounds

A definition of "reasonable grounds" was adopted to help Commission and staff follow guidelines for accepting complaints.

The elements necessary for demonstrating reasonable grounds include:

- an alleged prohibited action or practice in a designated area covered by sections 2 through 11 of the act, excepting section 9; which has affected, is affecting or may affect person(s) adversely because of race, religious beliefs, colour, sex, physical characteristics, ancestry, place of origin, age, or marital status, whichever is or are applicable,
- an identification of persons so affected,
- an identification of persons possessing other groups' characteristics, who are not adversely affected or alternately are favoured, by the alleged action or practice,
- the nature of the adverse impact of the alleged prohibited practice or action,
- sufficiently strong circumstances for believing a contravention has occurred or is occurring,
- persons identifiable as allegedly responsible for the alleged contravention,
- timeliness,
- an area of endeavor being subject to the jurisdiction of the provincial government.

Consideration must also be given to the possibility of exemption by way of:

- subsection of the act,
- regulation.

'notwithstanding the Individual's Rights Protection Act' clause in a governing statute of the Province of Alberta.

"Hate" Posters

A public statement denouncing a flurry of "hate" posters in and around Calgary and Edmonton was issued in June, 1982, by the Commission Chairman. The posters prompting violence against Jews and blacks were "an affront to the people of Alberta," she said. Her remarks were in response to anti-Semitic and anti-black posters, which appeared in and around Calgary.

"Surely there can be no excuse, no justification, and no tolerance for blatant racial hatred of this kind," Mrs. Antonio said in her statement. "Those who are responsible for the posters seriously misjudge Albertans

if they believe the posters will produce anything other than outrage and disgust in the communities where they are posted."

In letters sent to the Attorneys General for Alberta and Ontario, the Alberta Human Rights Commission also asked that investigations be carried out to determine whether the posters violated the Criminal Code of Canada. A letter was also sent to Governor John Evans of Idaho to enlist his support in counteracting the distribution of "hate" posters bearing a Hayden Lake, Idaho address.

Under section 16(1) of the Individual's Rights Protection Act, the Alberta Human Rights Commission is responsible for conducting educational programs to eliminate discriminatory practices related to race, religious beliefs, colour, sex, physical characteristics, age, ancestry or place of origin.

Conflict of Interest

The conflict of interest policy, established by the Commission in 1982, was renewed. The policy was approved to ensure that each issue which comes before the Commissioners is approached objectively. The policy states:

> "Any issue or party before the Human Rights Commission must be dealt with in an efficient, impartial and unbiased manner. Under the special obligation, there must be no hint of any conflict between the private, professional or business interests of the Commissioners and its public responsibility."

The policy states that when a Commissioner is in a "real or apprehended conflict, (he or she) shall simply declare their interest and stand down and excuse themselves from debate."

Physical Characteristics Guideline

In its first major effort to involve the public in its decision-making, the Alberta Human Rights Commission approved the hiring of a consultant to develop a "green paper" on physical characteristics. It is expected that the paper, when modified, will be released for public discussion later this year.

Insurance Industry

After meetings with representatives of the Insurance Bureau of Canada, the Commission supported a regulation approved by the Lieutenant Governor in Council which let Alberta's auto insurance industry continue using a rating classification system based partly on the sex of the person insured. The purpose of the regulation, which expires December 31, 1983, was to provide the insurance industry time to develop a rating system based on an individual's personal driving record.

The regulation exempts auto insurance companies from the application of the Individual's Rights Protection Act with respect to discrimination based on sex. The rating classification system is used to calculate the cost of insurance premiums paid by policy holders.

Section 13 of the IRPA authorizes the Lieutenant Governor in Council to pass regulations granting exemptions to the act. Such exemptions are subject to the terms and conditions established by the Lieutenant Governor in Council.

Education and Awareness

The open portion of every Commission meeting allows groups or individuals a forum in which to discuss discrimination problems and to help educate both the Commission and the public about these concerns. There are also provisions made for delegations to discuss these matters during the confidential session of the meetings.

During the past year, the Commission heard from groups, organizations and individuals interested in everything from seeking Commission support for changes in legislation to outlining the barriers faced by people with epilepsy.

Among those appearing at Commission meetings were:

- Light Rail Transit for the Handicapped Task Force, Calgary: sought Commission support for handicapped accessibility in new construction and expansion of the city's LRT system;
- Gay Alliance Toward Equality, Edmonton and Gay Information and Resources, Calgary: both groups asked the Commission to support a change in legislation which would make sexual orientation a protected category;
- Race Relations Council, Edmonton: discussed the forms of racial discrimination encountered by ethnic groups in the city;
- "Right to Work" Committee on Mental Health, of the Alberta Medical Association: met with the Commission to express their concerns about people who cannot find employment because of a past history of mental illness;
- Calgary YWCA: main area of discussion centred around women in the workforce, sexual harassment and the lack of female representatives on government-appointed agencies, boards and commissions;
- Native Opportunities Committee of the Calgary Chamber of Commerce: explained how the committee makes employers aware of various programs designed to put more natives into the Calgary workforce;
- Edmonton Epilepsy Association: discussed the problems faced by people with epilepsy, especially in employment, and how the association is trying to change people's attitudes towards epilepsy;
- Obscenity as a form of sexual harassment: a delegation made up of concerned citizens who have had to counsel or help women who have been sexually harassed. The delegation asked for an expanded definition of sexual harassment to include such things as obscenity and pornography.

The Chairman, Commissioners and Executive Director also met during the year with various interest groups on a number of matters affecting and affected by the Individual's Rights Protection Act.

These meetings included:

- discussions between the Alberta Human Rights Commission Chairman and Canadian Human Rights Chief Commissioner on the possibility of a joint program to increase public awareness of both Commissions in the province.
- talks between the project co-ordinator of the Ontario Black History Society and Commissioner Rollie Miles on the history of blacks in Canada. Mr. Miles agreed to act as liaison with the project and provide names of blacks who might help with the history.
- a joint meeting held with Alberta insurance boards seeking a firm commitment from the government with regards to a proposed regulation to exempt, for a specific period of time, the insurance industry from provisions of the IRPA concerning sex;
- attendance at a workshop in Ottawa on how to conduct effective public participation programs;
- discussions with the director, Employment Discrimination Section, Department of Employment and Industrial Relations, Government of Australia regarding provincial policies and programs designed to lessen discrimination;
- meeting representatives of the Sikh community in Calgary to discuss the provisions of the IRPA and how the Commission is able to help the community fight racism;
- meetings with both the Calgary and Edmonton police Race Relations Units. The discussions in Edmonton have resulted in an agreement that a short video tape will be produced on how the Commission and police can complement each other's roles;
- a review with members of the Workers' Compensation Board staff to ensure that job interview and job applications policies formed by the Commission were not in direct conflict with the Workers' Compensation Act and/or the Occupational Health and Safety Act;
- meetings with officials of the Alberta Consumer and Corporate Affairs department, to discuss problems faced by physically handicapped employees who feel they have been fired or not hired because they do not qualify medically for group insurance;
- a general council meeting sponsored by the Alberta Cultural Heritage Council on the "The Constitution and Multiculturalism — Human Rights, One Year Later". Both the Chairman and Executive director gave presentations at the meeting.

As well, the Commission was represented at a number of conferences and events both in Alberta and other parts of Canada. These included:

- attendance at the International Association of Human Rights Agencies conference in Halifax where both the Chairman and the Executive Director were asked to serve on panels.
- attendance at the annual meeting of the Canadian Association for Statutory Human Rights Agencies (CASHRA) in Montebello, Quebec.
- an invitation to the Slave Lake Native Friendship

Centre grand opening of the new facilities in November and to Slave Lake Homecoming '82.
- attendance at the Caribbean Canadian Association annual ball in Calgary.
- an invitation to the Central Alberta Indo Canadian Association annual cultural night in Red Deer.
- participation by Commission staff in the Small Business Information Fairs in both Calgary and Edmonton. Staff members manned a special display unit outlining the provisions of the IRPA.

A number of formal speech presentations were also made during the past year by the commissioners and Chairman.

Presentations were made by:
- Commissioner William Goetz, on how the IRPA affects employers and employees, to the local Government Administrators' Association Zone 2 fall meeting in High River.
- Commissioner Rollie Miles, to the Alberta Education Field Services Branch annual conference, Red Deer; Alberta School Trustees Association meeting, Edmonton; the Thorhild Academic Vocational High School, Thorhild.
- Commissioner Sheryl Wowk to the Professional Women's Club in Edmonton and the Professional Women in Travel club, Edmonton.
- Commission Chairman Marlene Antonio, to the Calgary Chamber of Commerce; the Downtown Rotary Club, Calgary; the Edmonton Personnel Association; The North Central Teachers' Convention in Edmonton; the Calgary Personnel Association; the Metropolitan Calgary Foundation (Homes for Senior Citizens); the Lethbridge Credit Granters Association; and Faculty of Business Administration, University of Alberta.

Regional Meetings

Slave Lake

Concerns ranging from the difficulties in getting life insurance for a young girl with cerebral palsy to the problems facing natives trying to find employment were raised when the Alberta Human Rights Commission held its June meeting in Slave Lake. A major portion of the two-day meeting was set aside to hear presentations and briefs from citizens from the surrounding communities.

At the meeting, Commissioners explained various facets of the Individual's Rights Protection Act.

A number of people in the audience took the opportunity to tell the Commission that native people were having trouble finding jobs in the Peace River area. One member of the audience suggested that there was a special need for a human rights education program in the northern area of the province.

Other matters raised at the public meetings centred around age discrimination, mandatory retirement, and alleged discrimination against non-union members.

After the formal meetings were completed a reception was held to allow the Commissioners to meet members of the community on an informal basis.

Cardston/Lethbridge

The main discrimination problems in southern Alberta centre around race and religion, the Alberta Human Rights Commission was told at meetings in Cardston and Lethbridge.

The Commission held an open meeting in the afternoon in Cardston then travelled by bus to Lethbridge for an evening meeting.

At Cardston, a number of natives told Commissioners that they felt residents of the town practiced both subtle and blatant discrimination against them. A businessman at the meeting, however, contended that there had been a number of attempts to discuss the matter with members of the Blood tribe council but that the council had never replied.

A member of the Alberta Native Students Association felt that the clash between the two communities arose from the fact that two peoples with different lifestyles, cultures and laws were living side by side. The student felt that the conflict was going to grow. Another member of the Blood tribe said that there was also religious discrimination and that one had to be a member of the Church of Latter Day Saints to succeed in Cardston.

The Commission suggested it could offer its services as mediator and educator to help resolve differences but that the initiative had to come from the community. As a result, an ad hoc committee known as the Cultural Exchange Committee was established. The committee is made up of representatives from both the Blood Reserve and the community and includes Commissioner Ehli as a member.

Its objectives include:
1. cultural exchange
2. historical background of both communities
3. social involvement
4. community development
5. developing and using each other's strengths

In Lethbridge a small but enthusiastic group attended the meetings. The guests at the meeting gave an overview of native problems in the area, ranging from a lack of proper housing to the reluctance natives have to file discrimination complaints with agencies such as the Commission. One of the women in attendance said that

traditionally, natives do not feel comfortable complaining about the discrimination that they face and are concerned that they might have to testify if they follow through on any complaints.

The Commissioners reminded those present that, under the legislation, the Commission is not allowed to do anything until a formal complaint has been filed. The Commission, in reply to a request for a more intensive advertising campaign to persuade natives to file complaints, pointed out that there were financial restraints which would hamper any such plans.

In addition to residents of Lethbridge, the meeting was attended by two representatives of the World Council of Indigenous People.

International Human Rights Day December 10

The people of Alberta were reminded of the significance of the 34th anniversary of International Human Rights Day through editorials, features, interviews and public service announcements.

Commission Chairman Antonio noted that individuals could best celebrate the day by ensuring that they were aware of their rights. "Here in Alberta, we take basic rights and liberties for granted. Yet we would do well to remember that in many countries, people fight and die for these rights and liberties."

A feature article on the signing of covenants and agreements marking the celebrations was sent to the province's 145 weekly newspapers. Public service announcements were mailed to all radio stations and media interviews were conducted on the importance of the day.

The distribution of more than 1,500 balloons and buttons to children in Calgary and Edmonton served to involve youngsters in the recognition of this special day.

Public Affairs

During the past fiscal year the Alberta Human Rights Commission's "open door" policy to the media resulted in 383 contacts with the media. These contacts included interviews for newspapers, radio and television, and magazines as well as general information about the provisions of the Individual's Rights Protection Act.

Included in the year's public affairs program were:

- publication and distribution of the quarterly **Alberta Human Rights Journal**
- translation of a brochure, **You Have the Right** into Cree, Urdu, Chinese, Ukrainian, and French,
- production of an audio-visual presentation, **Human Rights, We're All Responsible.**
- media advertising for the Slave Lake, Cardston, and Lethbridge meetings,
- co-ordination of media campaigns,
- preparation of speaking notes for Commissioners,
- organizing publicity activities in support of International Human Rights Day,
- co-ordination of the Commission's annual report,
- development of placement for brochure **You Have the Right** in major supermarkets in Calgary and Edmonton,
- assembling **Paper Clips**, a review of human rights issues in the newspapers, for Commissioners and staff,
- preparation of news releases on a regular basis notifying the media about Commission meetings and settled cases, as well as releases on items of general interest,
- preparing and updating mailing lists for the **Alberta Human Rights Journal** and the annual report.

Education

One of the highlights of the past year for the education officers was the development of in-house workshops. The workshops consist of lectures and small group discussions and are designed to help employers understand and abide by the act when hiring, firing, or promoting employees.

The in-house workshops supplement ongoing seminars that are given to businesses employing large numbers of employees. The in-house workshops are designed for individuals and small companies and are conducted in the Commission's offices in Calgary and Edmonton. Registration at the workshops is limited to 20 persons at a time and are held as frequently as demand dictates.

Other highlights include:

- meetings with the University of Alberta's President's Committee on Sexual Harassment,
- meetings with the Human Resources Department of Nova, an Alberta Corporation, on sexual harassment policies,
- discussion with Oil Industry Native Recruiters,
- continuing talks with Edmonton city police Race Relations Unit,
- liaison with Canadian Human Rights Commission, concerning participation in the Union Counsellor Program sponsored by the United Way and the Canadian Labour Congress, Edmonton district.
- meeting with Alberta Teachers' Association Committee on Stereotyping and Discriminatory Practices.

The two education officers also held workshops for six teachers' groups and 65 schools for a total of 1,818 persons; 63 employer workshops for 1,098 participants; and 30 presentations to special interest groups reaching a total of 1,525 persons.

Decisions and Cases

Boards of Inquiry

When Commission staff and or Commissioners are not able to effect a settlement of a discrimination complaint, the Commission may direct the Minister of Labour to appoint a board of inquiry. The board of inquiry is a body distinct and unique from the Commission. At this level, the Commission's only duty is to carry the complaint before the board.

A board of inquiry hears evidence from both the complainant and the respondent and issues decisions based upon the evidence heard as it pertains to the Individual's Rights Protection Act.

Decisions of the board can be appealed by either party only on the basis of law or fact and law mixed.

The board itself is a quasi-judicial body with powers established under the Public Inquiries Act. Neither the Individual's Rights Protection Act nor the board deals with criminal law, as discrimination is not a criminal offense.

Karen Deisting against Dollar Pizza (1978) Ltd.

Chairman: C.P. Clarke, Edmonton

In the first case of sexual harassment to be heard by a board of inquiry in Alberta, Karen Deisting of Edmonton complained that sexual advances were made by the co-owners of a restaurant where she worked as a waitress. Ms. Deisting told the board that Anastassios Papaconstaninou and Peter Nickolais tried to grab and kiss her on a number of occasions while she was employed at the restaurant. She said that the harrassment continued even after she told them to leave her alone.

Ms. Deisting said that she felt she was fired after working less than a week at the pizza restaurant because she rejected the advances. The co-owners both denied harassing Ms. Deisting and said she was fired because she did not get to work on time.

In his report, board chairman C.P. Clarke noted that "the complainant testified at the inquiry and was subjected to extensive cross-examination. The story as told by the complainant, both at the inquiry, through direct examination and cross examination and as set out in her statement referred to above, was consistent in all of its essential points. The credibility of the complainant was not shaken in any serious way during the course of the investigation. After having had the opportunity to observe the complainant, this board is satisfied that she is telling the truth and the incidents as she described them did, in fact, occur."

Mr. Clarke awarded Ms. Deisting $160 for the wages she lost before finding another job five days later; $1,000 for embarassment and humiliation and, for the first time in Canada at a board of inquiry level, awarded the complainant $500 for the psychological damage suffered as a result of the harassment.

Richard Gomez and the Alberta Human Rights Commission against the City of Edmonton, Board of Police Commissioners, Chief of Police of the City of Edmonton and Constable John Roger Pratt of the City of Edmonton Police.

Chairman: John D. Hill, Edmonton

After three men filed separate complaints of race discrimination against city police, arising out of three different incidents, a board of inquiry was called to hear all three cases. However, the police argued that police did not fall under the jurisdiction of the Individual's Rights Protection Act and that, in any case, one board could not deal with all three complaints at the same time.

Chief Justice Sinclair of the Court of Queen's Bench ruled that police services were services customarily available to the public and as a result city police did fall under the act's jurisdiction. However, he also ruled that three separate boards of inquiry should be appointed to hear the complaints. Three separate boards were then appointed to hear the complaints of Richard Gomez, Edgerton Fiddler, and Anthony Mark Akena.

Mr. Gomez told the board that he was abused and called names by a police constable after he was stopped for speeding. Police testimony noted that the constable had followed Gomez's car for 27 blocks with the siren going all the while and two more police cars were called into service before Mr.Gomez finally stopped. By the end of the police chase both men were admittedly upset and angry words were exchanged.

In his decision, Mr. Hill noted that "if the complainant had felt that he was treated the way he was treated because he was black, then one might reasonably expect that this would be foremost in his mind when he prepared his written complaint and that the substance of the complaint would be that he was treated the way he was treated because he was a black person.

"The essence of the written complaint (to the police) is that the complainant feels he was mistreated by Constable Pratt, not that Constable Pratt treated him the way he did because he happened to be a black person."

Mr. Hill ruled that the complaint was unjustified and the complaint was dismissed.

Edgerton R. Fiddler and the Alberta Human Rights Commission against the City of Edmonton, the Board of Police Commissioners and the Chief of Police of the City of Edmonton

Chairman: John D. Hill, Edmonton

Edgerton R. Fiddler complained to the Commission that he was discriminated against by the Edmonton police because he was black. His complaint was affected by the judicial decisions which ruled that police services were services customarily available to the public and therefore under the provisions of the Individual's Rights Protection Act. However, at the inquiry, the complaint was withdrawn by Mr. Fiddler.

Mark Akena and the Alberta Human Rights Commission against the City of Edmonton, the Board of Police Commissioners and the Chief of Police of the City of Edmonton

Chairman: John D. Hill, Edmonton

Dr. Mark Akena complained to the Commission that he was unnecessarily searched, charged with two offenses which he did not commit and was subjected to harassment by the police because he was black. Dr. Akena's case was one of three affected by the judicial decision which ruled that police services were services customarily available to the public and therefore under the jurisdiction of the Individual's Rights Protection Act.

At the board of inquiry held after the court decision, Dr. Akena said the incident took place in a public parking garage in Edmonton when Constable Colin Pringle stopped him and charged him with driving without consideration for others. When the constable found empty pop cans and an empty beer bottle in the back seat, he also charged Akena with illegal possession of alcohol. Dr. Akena explained that he always picked up empty bottles as part of a recycling campaign to raise money for the social club where he worked. He showed the constable other bottles in the trunk of the car to confirm his explanation. Both charges were later withdrawn in court with no explanation.

The complainant contended that the police constable had given him a "look of disgust" when he saw Akena with a white female companion.

Constable Pringle told the inquiry that he stopped Dr. Akena because the complainant was speeding through the underground parking garage and that the beer bottle in the back seat still had foam and a bit of liquid in the bottom. He said he couldn't recall details of the incident because he deals with up to 3,000 people a year.

Mr. Hill in his report noted that he was "satisfied that, when viewed in its totality, the evidence establishes that the complainant was 'treated differently' on the evening in question and that such different treatment was accorded the complainant by reason of his colour, which is black."

He ordered the respondent, Constable Pringle, to refrain from discriminating against any person because of his or her colour, race, ancestry or place of origin. He also ordered Constable Pringle to pay Dr. Akena $100 as damages "for the affront to his worth and dignity."

Barbara Kovacs against Horne & Pitfield Food Ltd.

Chairman: Andrew C.L. Sims, Edmonton

Barbara Kovacs filed a complaint of sex discrimination against Horne & Pitfield Food Ltd. after she was told that she could not fill out the head of household declaration for full company benefits because she was not the principal wage earner in her family.

The company contended that since she had not worked the year before, her husband had earned more money and was therefore the principal wage earner. The full benefit package was available to principal wage earners only.

Ms. Kovacs filed the original complaint in 1979 and the following year separated from her husband and was then eligible for all company benefits.

However, she was advised that the Individual's Rights Protection Act had been amended and that group action could be brought on behalf of all other women involved. An amendment to the original complaint, she was told, would achieve this.

In his report, Mr. Sims said that with the amendments to the act, the Commission could not initiate a complaint. "Certainly in my view, since the Commission cannot initiate a complaint, it cannot amend one."

He noted that the Commission had to be an impartial third party yet was in an "unenviable role because section 16 of the act gives it a strong mandate to promote and foster not only the act itself but the important principles that underlie the more specific statutory provisions."

He ruled that the suggested amendment was a fundamental change and was more properly the subject of a new complaint. He dismissed the complaint and the Commission was ordered to pay the respondent's legal costs of $2,400.

Robert Fisher against Swiss Bakery and Tea Room (Rocky Mountain House)

Chairman: Glen Capeling, Red Deer

The complainant, Robert Fisher, has a history of epilepsy and after suffering a seizure in the Swiss Bakery and Tea Room was refused service when he returned the next day. He filed a complaint of discrimination based on physical characteristics, namely epilepsy.

Mr. Fisher told the inquiry that he could not cook his own meals because of his epileptic disorder and must eat all meals in restaurants.

Mr. Capeling ruled that the complaint was justified and ordered the owners, Mr. and Mrs. Feierabend to stop refusing to serve Mr. Fisher. However, he said he felt he did not have the power to order an apology as requested and even if he did have jurisdiction, would not be inclined to do so. "I do suggest, however, to both parties that they do so apologize for their actions and I do trust now that Mr. and Mrs. Feierabend appreciate the nature and consequences of epilepsy that they will be more acceptable to the attendance of Mr. Fisher on their premises. Mr. Fisher's conduct since the incident complained of is not without reproach and it is my view that both parties in this case ought to apologize and in the future to carry on in the ordinary course so that this type of behaviour will not be repeated by either party."

Decisions and Cases

Edyth Broda and Janice Howard against Robert Lemoignan and Econo-Car Canada Ltd., (S.R.S. Rent-a-Car Ltd.)

Chairman: Thomas J. Walsh, Calgary

A complaint of sexual harassment was filed against the owner of a Calgary car rental firm by two former employees who objected to his use of vulgar and abusive language at work.

Edyth Broda and Janice Howard told the board of inquiry that Robert Lemoignan used the language in all aspects of his work. Mrs. Howard said that he continually called her "Tiger" and told her to go braless when wearing company T-shirts. Ms. Broda said that Mr. Lemoignan told her to wear tighter pants and more voluptuous clothing. Mr. Lemoignan said he only made the remarks in jest.

In his report, Mr. Walsh noted that "in consideration of all evidence, it is clear that the general atmosphere of the workplace was one more suited to an all-male tavern or lumber camp than an office where there are staff and customers of varying backgrounds and both sexes."

He said the complainants "obviously felt uncomfortable in their work environment where the employer habitually used sexual, vulgar and demeaning language and in the company of attractive young women employees behaved in a crude and male-centred manner without any consideration of the potential office he might create by doing so ...

"The respondent cannot maintain that the same foulmouthed and vulgar language and manner of referring to female persons as is used in the exclusive presence of male persons should be used in the presence of female persons without consideration of the possible effects of such behaviour on the rights and dignities of these female persons."

Mr. Walsh accepted the Commission's submission that the "psychological or mental environment of the workplace can be a term or condition of employment so as to invoke the provisions of section 7(1)(b) of the IRPA." However, "in applying the law as set out in this decision to the evidence before the board of inquiry, it is with the greatest reluctance that this board of inquiry finds that the respondents did not violate section 7(1)(b) of the Individual's Rights Protection Act."

He said that the respondent had behaved in a crude and rude manner which probably offended the complainants, not to mention a few customers, but that the discomfort they experienced did not go far enough to constitute discriminatory treatment because of sex.

The complaint was dismissed without costs.

Heather Waplington against Maloney Steel (Calgary)

Chairman: William J. Johnson, Calgary

A complaint based upon sex discrimination was filed against Maloney Steel Ltd. after company officials refused to interview a woman welder for a job opening.

Heather Waplington was sent by the union for a position as a first year apprentice with Maloney Steel, but when she arrived, was told that they would not even interview her because there were no washroom facilities for women in the shop. The company later hired a male first-year apprentice.

At the board of inquiry, it was pointed out that there were two washrooms in the shop area, both designed for male employees. The only washrooms for women were in the office area and shop workers were not allowed in that area.

Ms. Waplington offered to use the men's washrooms when no men were in them, or use the women's facilities in the office area, or even use no facilities while at work.

The company argued that it could not economically build a separate washroom/changeroom comparable to the male facilities because it would cost about $60,000.

Commission officials suggested that the smaller men's room could be used instead, which would require only a lock on the door or an "occupied/unoccupied" sign.

Mr. Johnson noted that the question was whether the company "could have reasonably accommodated the complainant with its existing facilities and resources without affecting the operation of the business in an economical and efficient manner."

He pointed out that since there were only the three women welders in the whole union membership of 600, an elaborate women's washroom/changeroom was not necessary.

He said the complainant was justified and ordered the company to pay Ms. Waplington $5,236.68 to compensate for wages she lost while trying to find other employment.

Judicial Decisions

Hon. Chief Justice W.R. Sinclair in the matter of a Board of Inquiry consisting of Glen D. Capeling as Chairman and complaint of Hubert Bouten against Mynarski Park School District No. 5012

Hubert Bouten filed a complaint based upon age and sex against Mynarski Park School District after he was fired as a teacher and replaced by a young, female teacher.

Mr. Justice Sinclair ruled that Mr. Bouten had exercised his rights by appealing the firing to the Board of Reference under the School Act. He said that the board of inquiry set up to hear the complaint filed with the Alberta Human Rights Commission had no jurisdiction because the complaint fell under the jurisdiction of the School Act.

The Alberta Human Rights Commission has appealed the decision.

Justice D. C. McDonald in the matter of a Board of Inquiry consisting of S.D. Hillier as Chairman and the complaint of Marylou Bueckert, Seba Beach against Base-Fort Patrol Ltd., Calgary

An appeal was filed with the Court of Queen's Bench by Base-Fort Patrol Ltd. after a board of inquiry ruled that the company had practiced sex discrimination when it fired Marylou Bueckert.

Justice D.C. McDonald ordered the decision of the board of inquiry be reversed and that a new board of inquiry be appointed. In his decision, he said that he found "nothing in the statute or in the policy of the legislation which demands that the legal burden should be on the employer in any circumstances to prove that his conduct was non-discriminatory."

The Alberta Human Rights Commission has appealed the decision.

Update from 1981-82

The Alberta Human Rights Commission against The Alberta Blue Cross Plan

An application made by the Alberta Human Rights Commission for an order to compel the Alberta Blue Cross Plan to produce personnel records of all Blue Cross employees from October 1, 1977 to October 1, 1980 to investigate a complaint of sex discrimination, was dismissed by the Hon. Mr. Justice V.M.W. Smith.

The case was appealed by the Commission and a three-judge panel of the Alberta Court of Appeal heard arguments from both sides in the matter. The Commission was then asked to re-argue the case before the full Court of Appeal.

The Commission was further asked to present a case on whether pregnancy was considered to be sex discrimination under the terms of the Individual's Rights Protection Act and whether section 21 of the act which deals with seizure of records was compatible with the unreasonable search and seizure provisions of legal rights under the Canadian Charter of Rights and Freedoms.

The case will be argued before the full panel of the Alberta Court of Appeal.

Alberta Human Rights Commission Intervention

Theresa O'Malley and the Ontario Human Rights Commission against Simpson Sears, Toronto

The Alberta Human Rights Commission intervened in the matter of Theresa O'Malley against Simpson Sears. Ms. O'Malley filed a complaint based on religious discrimination with the Ontario Human Rights commission when she was fired for refusing to work on Saturdays. Working on Saturdays, she contended was against her religion. The matter went through the board of inquiry and justice system in Ontario. The Ontario Commission asked for leave to appeal the Ontario Court of Appeal decision before the Supreme Court of Canada.

The matter was heard before The Right Honourable Bora Laskin, Chief Justice of Canada Mr. Justice McIntyre, and Madame Justice Wilson. The Chief Justice indicated that the court felt it was a matter of national interest and granted leave to appeal the case.

Case Profiles

Employment/Applications

Case 83-031-97 ... Substantiated - Settled

A man who asked personal questions regarding sex, religious beliefs, relationships with parents and place of origin while interviewing potential employees, agreed to change his job application forms and conduct future interviews in accordance with the Individual's Rights Protection Act, after two journalism students filed complaints with the Commission.

The students answered an Employment and Immigration Canada advertisement for journalism and advertising trainees. When they arrived for the interview they were told that the positions were for foreign correspondents. The application form they were asked to fill out included questions about religious beliefs as well as political affiliations, experience with firearms, and diving expertise. During the interview, they were asked if they would become involved in an "intimate relationship" while on assignment.

When contacted by the Commission, the man who had interviewed the students said that he was establishing a new magazine, based in Edmonton, which would cover violations of human rights in various countries. He said that he was looking for two male and two female reporters and that the information about religious beliefs, ancestry and place of origin was important in deciding which reporter would go where.

He was informed that under section 8(1) of the Individual's Rights Protection Act, potential employees cannot be asked any questions, written or oral that express "directly or indirectly" any limitations, specification or preference as to the race, religious beliefs, colour, sex, physical characteristics, age, ancestry or place of origin. After he agreed to change the application forms and line of questioning during interviews, the matter was considered settled.

Employment/Equal Pay

Case 80-030-88 ... Substantiated - Settled

A woman sales representative who felt she was paid less than her male counterparts for doing the same work, filed a complaint based upon equal pay. She also contended that she had applied a number of times for a promotion to assistant manager and had been turned

down. Commission staff investigating the complaint substantiated both allegations.

When the company's head office was contacted by the Commission about the complaint, it was discovered that the local manager made the salary decisions and, furthermore, had not forwarded the woman's promotion requests to head office. Head office management removed the difficulties and the woman was promoted to an assistant manager's position. She also received compensation to make up for the difference between her salary and that of her male co-workers.

As well as promoting and compensating the woman, the company took appropriate steps to review related employment practices and ensure that its commitment to equal opportunity employment was made known to all employees.

Under section 6(1) of the Individual's Rights Protection Act, employers must pay equal wages to both male and female employees for similar or substantially similar work in the same establishment.

Employment/Sexual Harassment

Case 81-070-38 ... Substantiated - Settled

While working as a hostess in a restaurant, a woman alleged that the two owners repeatedly fondled and pinched her and talked in a sexually explicit manner. The woman could not tolerate the men's behaviour and resigned from her position as hostess. She then filed a complaint with the Commission.

After interviewing other female employees at the restaurant, Commission staff confirmed that other employees had also experienced sexual harassment from the restaurant owners. The complaint was substantiated and a settlement of $750 for the hostess was negotiated by Commission staff. The restaurant owners also agreed to adhere to the principles of the Individual's Rights Protection Act in a policy statement to the Commission.

Sexual harassment is considered to be a form of sex discrimination. Under section 7(1) of the act no employer, or person acting on behalf of an employer can discriminate with regard to any term or condition of employment because of sex.

Employment/Religious Beliefs

Case 79-110-86 ... Substantiated - Settled

A member of the World Wide Church of God filed a complaint with the Commission after he was fired as a labourer with a municipal engineering department. The man had asked for special leave to attend church holy days but the municipality said that it could not accommodate his request because he was a temporary, not permanent, employee. The municipality also contended that there were no provisions for accommodating people on the basis of religious beliefs. When the man took the time off despite the municipality's ruling, he was fired.

Commission staff investigating the complaint substantiated the allegation of discrimination based on religion. In settling the matter, the municipality agreed to pay $2,009.40 as compensation for lost wages and to include a provision for religious leave of absence, under certain conditions, in the collective agreement.

Under section 7(1) of the Individual's Rights Protection Act, an employer cannot discriminate against an employee on the basis of religion.

Employment/Age

Case 81-110-73 ... Unsubstantiated - Settled

When a 62-year-old man applied for a job with a construction company, the site foreman refused to interview him for the advertised position. The man filed a complaint with the Commission, stating that he felt he was discriminated against because of his age. The construction company had apparently told the man that the position involved a good deal of climbing and that it could be dangerous for an older person. However, before the Commission investigation was completed, the construction firm offered to settle the matter by paying $600 as compensation to the man. The offer was accepted by the complainant and the case was closed.

Under section 7(1) of the Individual's Rights Protection Act, age (from 45 to 65) is protected category and employers cannot use age as a basis for discrimination.

Employment/Race

Case 81-040-03 ... Substantiated - Settled

A black worker in a factory complained to the Commission that he was treated differently at work than his white co-workers. He said white workers who had joined the firm after him were promoted to permanent status while he was still considered a temporary employee.

The firm stated that under the collective agreement, the man had failed to accumulate the required number of days in a year to gain permanent status. Management maintained that the man had a poor attendance and work record and that discrimination was not a factor. However, the company could not show through its records that the complainant's work and attendance were unsatisfactory.

Commission staff negotiated a settlement between the complainant and the company which included granting the worker permanent status and paying him $5,329.94 to make up the difference in wages between his temporary and permanent conditions.

Different terms and conditions of work based upon racial discrimination is a contravention of section 7(1) of the Individual's Rights Protection Act.

Employment/Physical Characteristics

Case 81-011-40 ... Substantiated - Settled

After he was hired as a caretaker with a large educational institution, a man was told that he had to

take a medical in order to continue employment. After taking the medical, he was advised, in writing, that his employment would be terminated because his medical history and records were considered unsatisfactory. Further discussions with the manager of the department revealed that the original medical had been considered satisfactory and that a previous foot injury was only noted.

However, when references were checked with the man's previous employer, an absentee problem was indicated. Because of this reference, the doctor was again contacted and the conclusion was drawn that the foot injury might be a factor in the absentee problem.

Commission investigation showed that the man's past employment record did not necessarily indicate an attendance problem. Furthermore, there was no evidence that the present employer's insistence on a medical was related to the job. The present employer could not say how the man's performance would be adversely affected by a previous foot injury.

The matter was resolved with an agreement to pay the man $3,978 to make up for a lost three month's wages, and an assurance that the educational institution would adhere to the principles of the Individual's Rights Protection Act.

Under section 7(1) of the act, physical characteristics cannot be used as a basis for discrimination in employment.

Services/Race

Case 82-050-44 ... Unsubstantiated - Settled

A native society booked accommodation and facilities for a workshop at a hotel and was advised that no down payment was required. When a representative from the society called later to confirm the booking, a hotel employee said that the reservations had been cancelled. The employee explained that the hotel had some difficulty in collecting payments from another native organization which had used its facilities.

In the meantime, the hotel had already booked other activities in place of the native society workshop, and the society had to change the workshop location.

The society complained to the Commission but before the investigation was completed, the manager of the hotel offered an apology and an assurance that the incident would not happen again. As a result, both parties agreed that the matter was settled and no further Commission involvement was necessary.

Under section 3 of the Individual's Rights Protection Act, it is a contravention of the Act to deny, because of race, any person or class of person any accommodation, services or facilities customarily available to the public.

Services/Race, Place of Origin

Case 82-100-99 ... Unsubstantiated - Dismissed

A south Asian student in a community college claimed he was expelled from the college because of his alleged involvement in an attempted break-in. The student said he was innocent and that when he went to clarify the matter with a department head was told "if you make any waves, we will have you deported." He said similar threats were not made to white students also accused of the attempted break-in, and as a result, filed a complaint of discrimination based on race and colour.

Commission investigation revealed that the three white students who were accused of the attempted break-in stated that the South Asian student acted as a "look-out". The college expelled the white students as well as the complainant.

There were no witnesses to the alleged deportation threat and there was no evidence supporting the South Asian student's claim of discrimination. As a result, the complaint was dismissed.

Under section 20(4) of the Individual's Rights Protection Act, if in the opinion of the Commission, a complaint is without merit, the Commission may dismiss the complaint at any stage of the proceeding.

Tenancy/Race

Case 82-040-11 ... Substantiated - Settled

A referral worker from a native friendship centre called a manager of a local apartment complex, on behalf of one of her clients, to enquire about an apartment. The referral worker said that when the apartment manager realized she was calling from the centre he stated "No Indians. You get one Indian, you get the whole tribe." The referral worker filed a complaint with the Commission on behalf of her client.

Commission investigation substantiated the complaint and the matter was settled with an agreement by the apartment owners to inform all company apartment managers that they were not to discriminate against native people in either renting apartments or in any terms or conditions of tenancy. The owners also agreed to circulate Commission publications outlining the provisions of the Individual's Rights Protection Act to apartment managers.

Under section 19 of the IRPA, any person, except the Commission and a member or employee of the Commission, who has reasonable grounds for believing that a person has contravened the act may make a complaint. This allows a person who has witnessed an act of discrimination to file a complaint even if the discrimination was not directed at the person making the complaint.

Under section 4 of the act, it is a contravention to refuse to rent a commercial unit or self-contained dwelling to any person because of that person's race or colour. The act does not apply to rental or shared accommodation, such as room and board in a private dwelling.

Decisions and Cases

Reasonable Accommodation/Physical Characteristics

Case 82-121-31 ... Substantiated - Settled

A woman who had a lifetime membership in a health club and continued to keep up her activities in the club even after she became wheelchair-dependent, filed a complaint of discrimination based on physical characteristics when the club ownership changed hands.

The original owners of the club went bankrupt and new owners took over the operation. The new owners published an offer to all existing members to continue their membership at a bargain rate. When the woman in the wheelchair sought to take advantage of the offer, she was refused with the explanation that the club did not have the resources to take care of the needs of a wheelchair-dependent person. She was also told that she should consider physiotherapy as an alternative.

A Commission investigation substantiated the complaint and a settlement was reached after the club owners agreed that the woman would be accompanied by an attendant whenever she wanted to use the pool or hot-tub. No additional fees were to be charged for the extra service.

Under section 3 of the Individual's Rights Protection Act, it is a contravention of the act to deny services or facilities customarily available to the public because of discrimination based upon physical characteristics. Under the act, physical characteristics means "any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes epilepsy, paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment and physical reliance on a guide dog, wheelchair or other remedial appliance or device."

Service/Place of Origin

Case 82-091-46 ... Unsubstantiated - Dismissed

An exchange of insults and an argument between a customer and the owner of a small service shop was not a contravention of the Individual's Rights Protection Act.

A man complained to the Commission that the shop owner had verbally abused him and made derogatory comments about his place of origin, which was England. The complainant further claimed that the owner had failed to provide the service previously agreed upon and said he wanted to file a claim of discrimination in public services, based upon place of origin.

Commission investigation revealed that the exchange started after the complainant became impatient while waiting for service at the shop. The Commission futher learned that both men involved had insulted each other's places of origin.

There was no actual loss to the complainant over the incident and no discrimination was involved. However, the Commission made it clear to both parties that the unfortunate exchange was not behaviour condoned by the intent of the act.

Under the terms of the act, the Commission can dismiss a case which has no merit, at any point of the investigation.

Employment/Sex

Case 79-020-78 ... Substantiated - Settled

A woman instructor at a post-secondary institution filed a complaint with the Commission alleging that she had been discriminated against in employment promotion opportunities and conditions because of her sex. She said she had applied for several department head positions including one in which she had been acting department head for a brief period of time, but had not been successful in any of the applications.

Commission investigation into the complaint revealed there was some evidence that certain personnel practices at the institution could be considered discriminatory.

A settlement was negotiated and the institution agreed to:

(a) adhere to and comply with the provisions of the Individual's Rights Protection Act,
(b) recommend to its board of governors that it conduct a review of its personnel policies and practices,
(c) provide the Alberta Human Rights Commission with a copy of the review.

The review of the policy and practices was completed and a copy sent to the Commission. The personnel department at the institution also made arrangements with the Commission's education unit to conduct a workshop with the personnel staff.

Under section 7(1), it is a contravention of the act to discriminate in employment on the basis of sex.

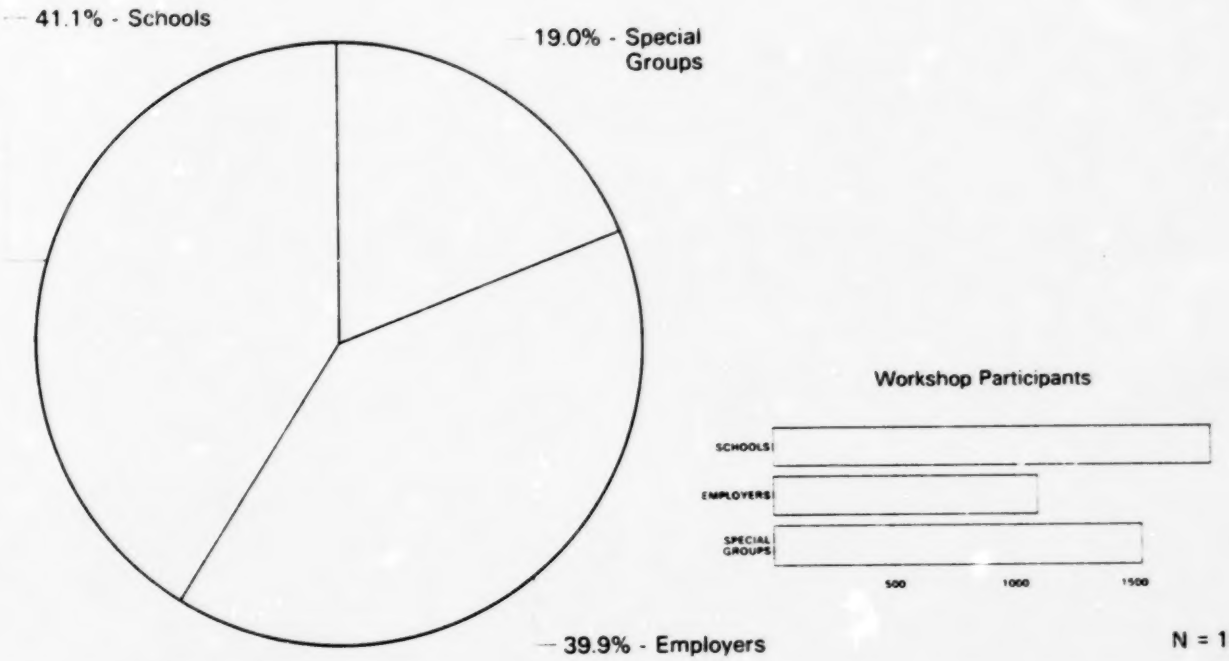
Table 1
Formal Complaints for Total Province
April 1, 1982 - March 31, 1983

	Discrimin-atory Signs	Public Accomod-ation Services	Tenancy	Equal Pay	Employ-ment	Advertise-ments Applica-tions	Unions etc.	Retalia-tion	Total	Percentage
Race/Color Black		8	3		23		1		35	20.1
Native		5	7		2				14	
S. Asian		4			7				11	
Oriental			3		3	1			7	
White					1				1	
Others		1	1		4				6	
Sex Male		3			6				9	45.2
Female		8	1	6	141	1	1		158	
Other Relig. beliefs		3	1		8				12	3.3
Age					16		1		17	4.6
Ancestry		5			7	1			13	6.5
Pl. of Origin	1	3			7				11	
Marit. Stat.					4				4	1.1
Phy. Char.		7			56	1			64	17.3
Retaliation								7	7	1.9
Total	1	47	16	6	285	4	3	7	369	
Percentage	0.3	12.8	4.3	1.6	77.2	1.1	0.8	1.9		100.00

Statistics

EDUCATIONAL ACTIVITY

Workshops



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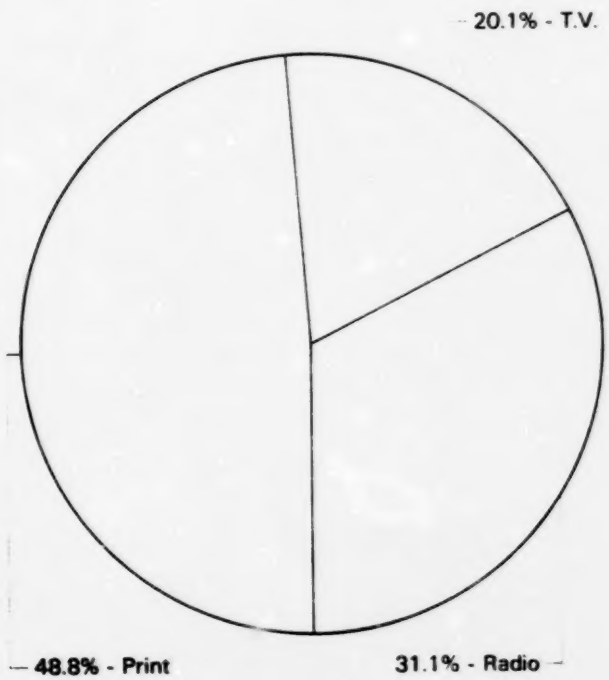
MEDIA ACTIVITY

Media Contacts



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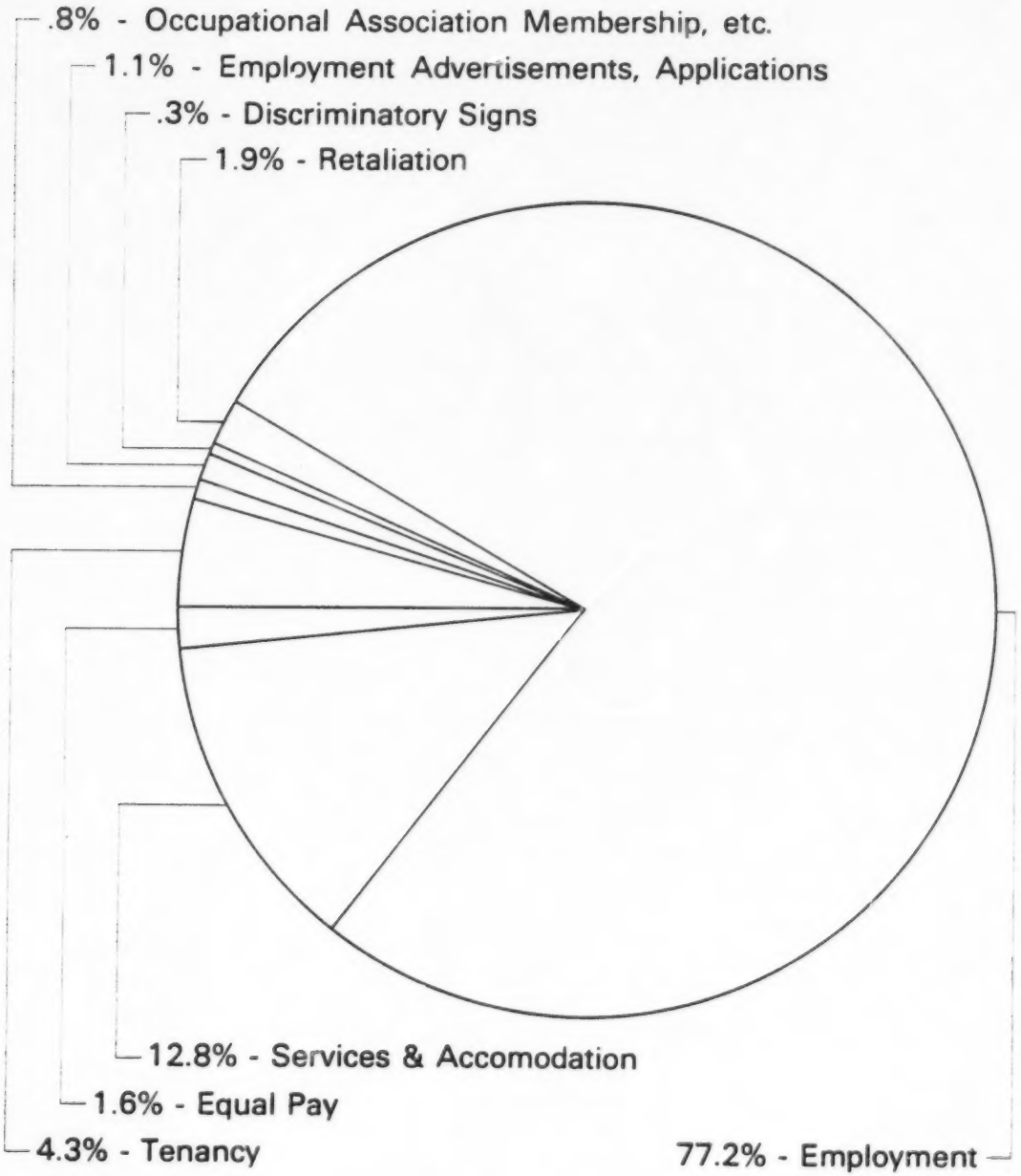
FORMAL CASES BY PROHIBITED AREAS OF DISCRIMINATION



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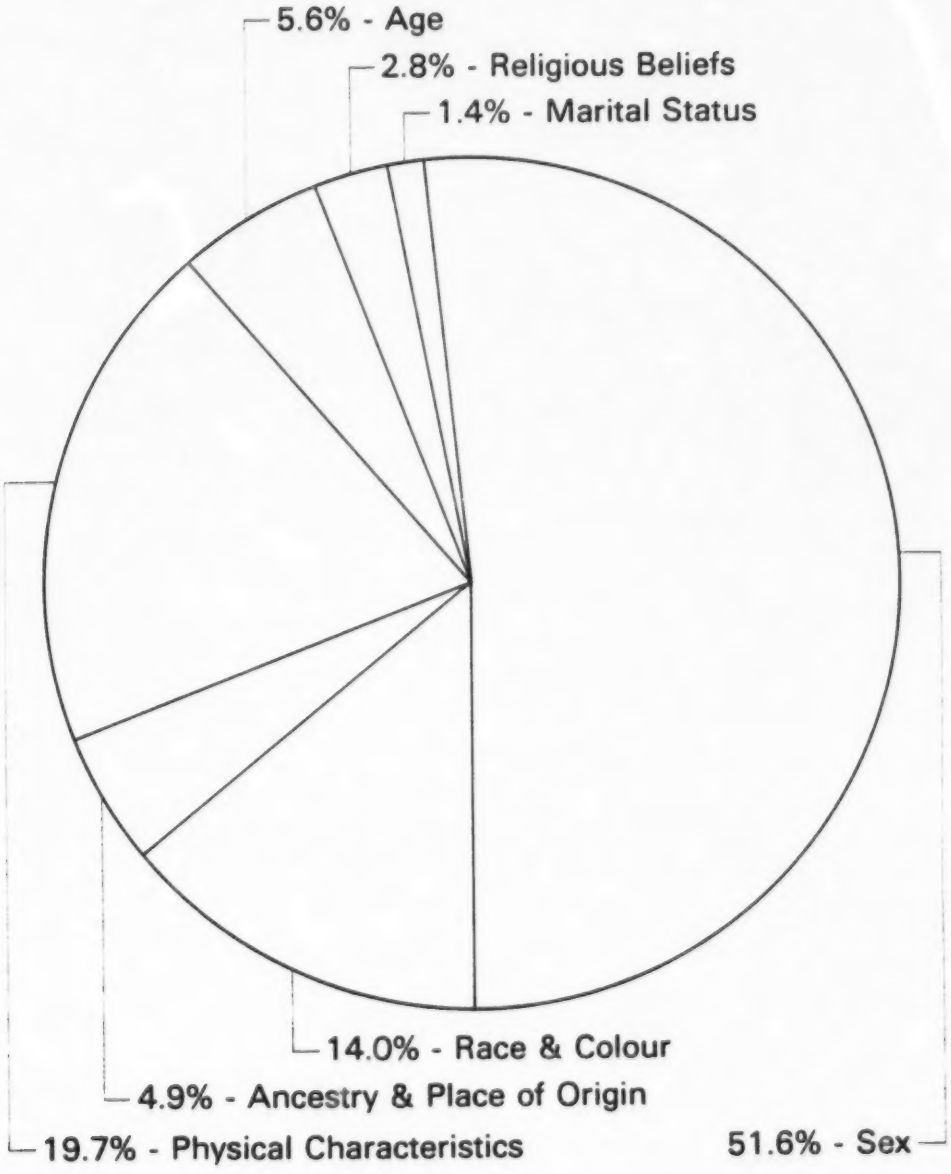
Statistics

FORMAL CASES BY PROHIBITED GROUNDS OF DISCRIMINATION IN EMPLOYMENT



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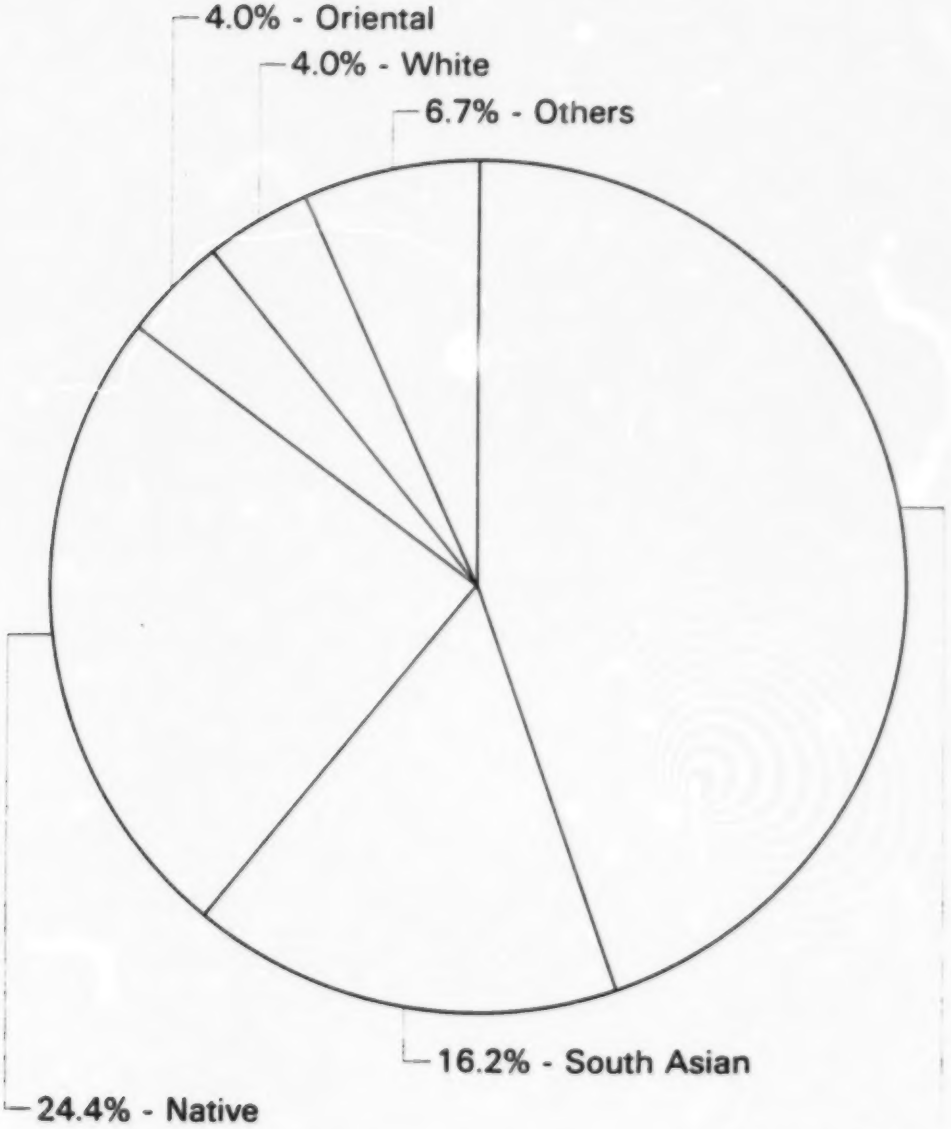
FORMAL CASES FILED ON BASIS OF COLOUR/RACE



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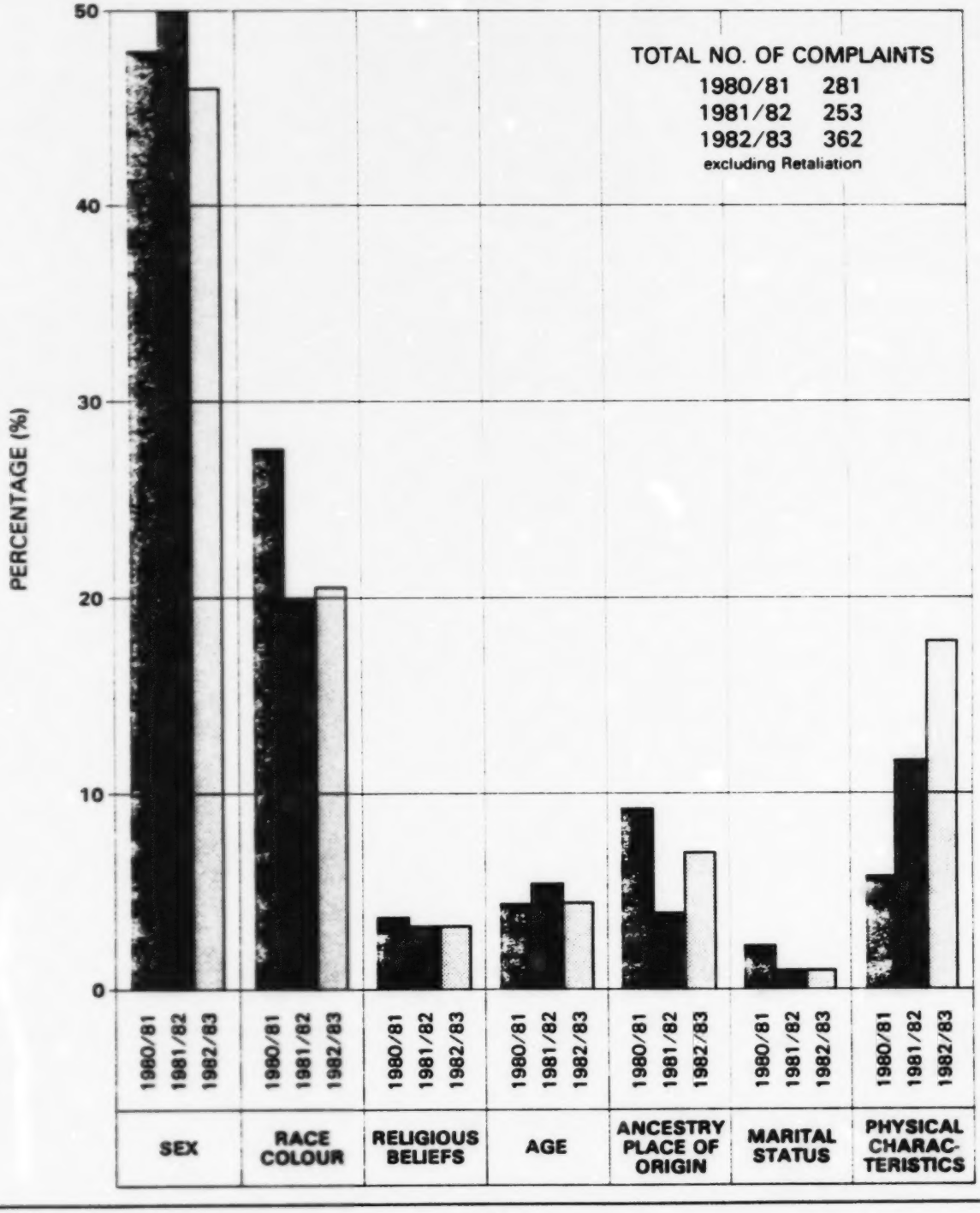
Statistics

Percentage of Formal Complaints by Grounds



POOR

QUALITY

ORIGINAL